

HOWARD HEUSTON,	:	Order Vacating Decision and
Appellant	:	Remanding Case
	:	
v.	:	
	:	Docket No. IBIA 94-157-A
MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	September 1, 1994

This is an appeal from a June 27, 1994, decision of the Muskogee Area Director, Bureau of Indian Affairs, holding that Departmental Oil and Gas lease 601-47123 (63128), Minnie Fouts, Cherokee 31315, had expired for failure to produce oil and/or gas in paying quantities.

On August 31, 1994, the Board received a copy of an August 29, 1994, letter sent to appellant by the Area Director. The letter indicated that appellant's lease had been reinstated following a determination that the June 27, 1994, decision had been based on incomplete Minerals Management Service production reports.

The Board construes the Area Director's August 29, 1994, letter as a request to the Board that it remand this matter to him so that he might reinstate the lease. 1/

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Area Director's June 27, 1994, decision is vacated, and this matter is remanded to him for reinstatement of appellant's lease.

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Anita Vogt  
Administrative Judge

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Kathryn A. Lynn  
Chief Administrative Judge

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1/ The Board has consistently held that once an appeal has been filed with the Board, BIA loses jurisdiction over the matter except to participate in the appeal as a party. E.g., Hammerberg v. Acting Portland Area Director, 24 IBIA 78 (1993); Cherokee Nation v. Muskogee Area Director, 22 IBIA 240 (1992). Accordingly, the Area Director lacked jurisdiction to reinstate appellant's lease while this appeal was pending before the Board.

Where BIA discovers an error in its decision after an appeal has been filed, it has a number of options, one of which is to request that the case be remanded to the Area Director for corrective action. Cherokee Nation, 22 IBIA at 244-45.